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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,015	10/03/2001	Paul Vegliante	2112-342.1 US	2684

7590 03/20/2006

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EXAMINER

HAMILTON, ISAAC N

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/970,015	Applicant(s) VEGLIANTE ET AL	
	Examiner Isaac N. Hamilton	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,11-14,16-23,35-40 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,11-14,16-23,35-40 and 42-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/08/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 depends from a canceled claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-7, 11-14, 16, 17, 20-23, 35-40 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas, Jr. et al (5,440,961), hereafter Lucas, in view of Kaiser et al (5,292,046), hereafter Kaiser. Lucas discloses everything as noted in Diagram 1; channel 13; bottom edge of upper portion of blade housing protrudes on either side of blade in figure 3; end surface of upper portion is rounded and inclined upward as shown in figure 2; tracking device 34; middle portion juxtaposed lower portion and upper portion; predetermined length and predetermined clearance of said middle portion shown in figures 2 and 3; tubular base 31; channel has tubular shape as shown in figure 3; left section 39; right section 35; rivet 37; aperture 51; blade angled from bottom edge at 30 degree angle as shown in figure 2; depression 7; rear edge 5; cover of a carton 9.

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Lucas does not disclose a material which provides an attraction to the plastic wrap. However, Kaiser teaches material 190 which provides an attraction to the plastic wrap as recited in column 4, lines 1-10. It would have been obvious to provide a material which provides an attraction to the plastic wrap in Luca as taught by Kaiser in order to prevent the use of a high friction surface. Note that Kaiser discloses Acrylic, which is known to have a hardness in the shore A range, to be smooth, to be non-porous.

Extrusion is a process that is well known in the manufacturing of Acrylic and other polymers as evidenced by Boda (5,524,515), and does not further limit the structure. Moreover, choosing which material to use is simply a matter of design choice and there is prior art disclosing the use of vinyl, PVC, Acetal or Silicon in plastic elements. For instance, Urion et al (4,210,043) has a blade housing formed of acetal, and Tsai (5,036,740) has a base rail formed of PVC. Since the applicant has not presented the specific advantages that these materials provide over the materials that one of ordinary skill in the art would have used, it would have been obvious to use vinyl, PVC, Acetal or Silicon in the combination in order to support the elements of the film cutter.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lucas and Kaiser as applied to claims 1, and further in view of Keene et al (3,277,760), hereafter Keene. Lucas discloses channel 13; pair of rails, upper section and lower section shown in Diagram 1 below. Lucas does not disclose a protrusion and does not disclose a blade housing that snap fits into a protrusion. However, Keene teaches protrusion 18, 29, 40, and discloses blade housing 40 that snap fits into the protrusion. It would have been obvious to

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provide a blade housing that snap fits into a protrusion in Lucas as taught by Keene in order to prevent the blade housing from sliding out of the elongated rail base.

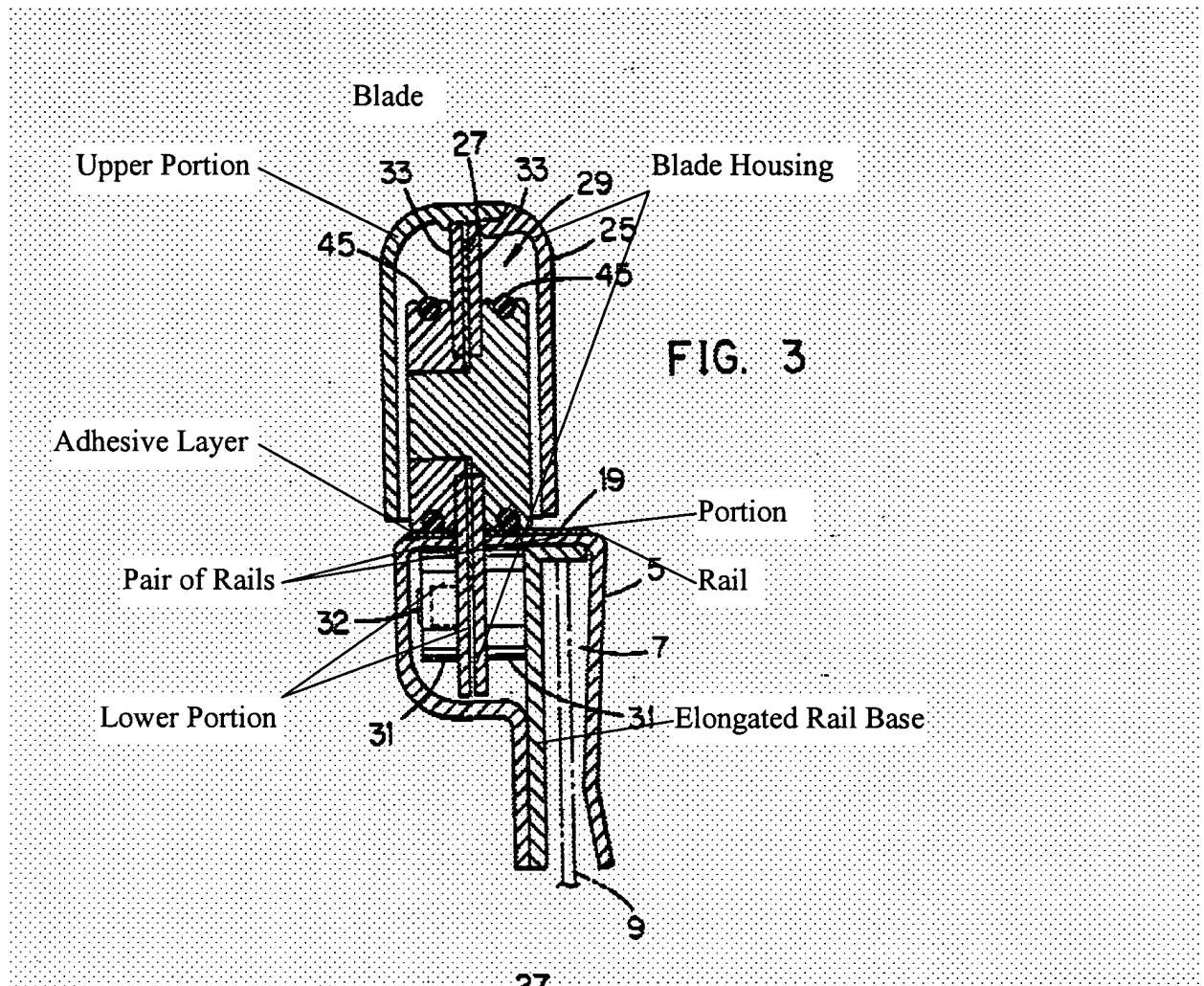


Diagram 1. Figure 3 in Lucas.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-7, 11-23, 35-40 and 42-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Larrable and Ober are cited for a film cutter wherein on the blade is in the channel or has contact with the rail base.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IH
March 14, 2006



KENNETH E. PETERSON
PRIMARY EXAMINER